

## **Supported Decision-Making Committee**

**SB #230**

### **Minutes**

**October 12, 2016**

**Smyrna Rest Area, Smyrna, DE**

**2:00 p.m. – 4:00 p.m.**

**Members Present:** Pat Maichle (Developmental Disabilities Council), Stefanie Lancaster (Developmental Disabilities Council), Daniese McMullin-Powell (ADAPT), Barbara Monaghan (Delaware People First), Patricia Justice (Division of Services for Aging Adults with Physical Disabilities), Terri Hancharick (EPIC), Michael Pasquale (self-advocate), Jamie Wolfe (State Council for Persons with Disabilities), Lexie McFassel (Office of the Public Guardian), Verna Hensley (Easter Seals), Brian Hartman (Disabilities Law Program), Cory Nourie (Nemours), Thomas Cook (Abilities Network of Delaware), Debra Miller (CHIMES), Terry Olson (The Arc of Delaware), Vicki Haschak (Elwyn), Vivian Turner (CERTS), Cynthia Campbell (parent)

**Guests Present:** Bill Monaghan, Elizabeth Sauner (attendant services), Lisa Elias

**I. Welcome and Introductions-** Members of the committee and public introduced themselves at this time. Pat stated that some slight changes were made to the draft version of the Endless Possibilities document as well as the Supported Decision-Making Agreement based on suggestions made at the last meeting. Pat expressed her gratitude to Patti Justice from DHSS for joining in our discussions as well as Cory Nourie from Nemours.

**II. Review of the Agenda –** There were no updates or additions requested at this time. The agenda was approved as written.

**III. Review of Minutes –** There were no updates or additions requested at the meeting. The minutes were approved. When the committee's recommendations are given to Division of Health and Social Services in December, the information from committee minutes will be included for their reference to track our discussions. **A list of recommendations will be documented separately.**

**IV. Review of Chart of Options in DE Revised –** A copy of the revised Chart of Options – Endless Possibilities – was given to everyone who attended. Lexie McFassel and Patricia Justice were involved in the revision of this document. Under the "Intended Population" section of the Supported Decision Making agreement – the language which previously stated "including those with physical disabilities, cognitive or intellectual disabilities, brain injuries and the elderly" has been removed. It was decided at the last meeting that this should be removed as this document is for the general population, not just those with disabilities. Also, under the "Termination of Power" within the Guardianship section, the language referring to "... petition of review by the Court of Chancery if the individual recovers capacity" – was changed to remove the words "petition to" and "if the individual recovers capacity". It was

decided that annual reviews on guardianship would be sufficient. **Lexie will provide the committee with the final document to submit along with the committee's recommendations in December, 2016.**

Jamie Wolfe asked if individuals signing SDM agreements must be able to physically sign the document themselves. Pat said whatever method individuals use for their signature – initials, a dot, lines, or a traditional signature will be accepted.

Terri Hancharick questioned if facial expressions are accepted as the individuals approval or signature for this document. Pat stated that consent/signature by facial expression is not an option. It was suggested that an individual may hold a pen in their mouth to sign or use other special software to assist them with their signature.

**V. Review DRAFT Agreement Revised** – Lexie McFassel and Patricia Justice added in the citation of the code where the law now sits. Patti stated that she and Lexie reviewed the Texas Supported Decision-Making Agreement (a copy was provided to everyone who attended). Check boxes were added to the Delaware forms along with a line for initials next to each area that the individual would like the Supportive Decision-Maker to help them with - Health Affairs, Supportive Services, and Financial Affairs. Also, a section was added to the last page as a declaration page for the individual, the Supportive Decision-Maker and witnesses to sign. Pat asked those present to share any further suggestions regarding the document, stating that the document can be edited later.

Pat stated that her daughter, Tara Bustard, recently was the first to sign her Supported Decision Making Agreement. Pat stated this document was something they both felt comfortable using to make her daughter's wishes known.

The wording under a) Health Affairs, "communicate or assist me in communicating my decision to other persons" will be added to sections b) and c).

A question was raised about adding a protection clause to this agreement. A protection clause was required in the Texas statute, but it is not required here in Delaware. **After some discussion, it was decided to include a section on "Protection" at the end on the last page of our draft. The new section will state "A person who received the original or a copy of a supported decision-making agreement shall rely on the agreement. A person is not subject to criminal or civil liability and has not engaged in professional misconduct or an act or omission if the act or omission is done in good faith and in reliance on a supported decision making agreement". The Delaware draft document will be revised to reflect this change. Those present stated that perhaps a few sentences can be added to this section of the document with a link to refer to the statute for more details. Brian Hartman was also suggested to add a link to the engrossed version of the law as reference to the DHSS website. This will be added to the committee's list of recommendations.**

Some committee members asked if a SDM Agreement beneficiary wished to assign support roles to multiple individuals must be on a separate form completed for each supporter. It was suggested that this can be noted under section 5 of the Delaware draft agreement. SDM Agreement beneficiaries can specify which individual is granted their permission to provide support in each designated area.

**Jamie Wolfe asked if this agreement form can be completed and printed for an individual to sign in a fillable PDF format. The committee stated that that option should be made available and will be included in the list of recommendations to DHSS.**

**VI. Review DRAFT Education Plan –** There have been several recommendations regarding various agencies and groups of individuals that would need proper training on Supported Decision Making and other options available to all Delawareans. Pat included a draft of this document so the committee could begin discussion about this. After reviewing, Lexie recommended to limit the amount of different agencies/organizations to present this training and present it to “groups” rather than individual organizations separately– Direct Service Providers, Legal, Medical, Education and Public. **The presentation being developed for the LIFE Conference will be used as the core training tool and more slides will be added to provide information tailored to a targeted audience. Another recommendation that will be made to DHSS is to have this training available in a webinar, PowerPoint and video format on DHSS’s website and be fully operational by February 2017. Also, they should consider styles of learning and include a resource page and a point person at the department.**

Pat was at a conference in Texas recently where a presentation was done regarding the training that Texas offers regarding Supported Decision Making. The materials that were developed were presented. A copy of their presentation was provided to all those present at today’s meeting. One of the slides used is a pictorial layout that shows all different options available – not just Supported Decision-Making. Members from the Texas group have stated that they would be happy to come to Delaware to discuss what they have developed and allow Delaware to mimic what they have done.

**VII. Suggested Recommendations –** The following are the recommendations by the committee at this time. These will be added to a list of recommendations to provide to DHSS in December.

- a. Ask that DHSS add a link to the engrossed version of the SDM law for individuals and those helping to complete the form as reference on their website.
- b. Offer the SDM agreement in a fillable PDF format for individuals to complete online, print and then sign the document.
- c. Offer training to targeted audiences such as Direct Support Providers, Legal, Medical, Education and the Public.
- d. Have all the SDM information available on DHSS’s website including a resource page and a point person at the Department and be fully operational by February 2017.

**VIII. Schedule next meetings –** The next meeting is scheduled for November 16<sup>th</sup> from 10 a.m. until noon at the Smyrna Rest Stop. Please plan to attend. All documents for future meetings will be sent in advance. Some of the information for this meeting was not available to send in advance for this meeting.

**IX. Adjourn** - The meeting adjourned at 3:15 p.m.